Attarney's Docket No. 2537 (203-2755)

This declaration is of the following type: (check one applicable item below)

As a below named inventor, I hereby declare that

- original
- Supplemental design
- NOTE: If the declaration is for an International Application being filed as a divisional, continuentum or coentinuarion-in-part application do god check next item; check appropriate one of last three riscus.
- C national stage of PCT
- NOTE: If two of the fullowing 3 items apply then complete and also ettach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

INVENTORSHIP IDENTIFICATION

continuation-in-part (CIP)

continuation

WARNING. If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one mone is listed below) or an original, first and joint invector (if phreal names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled.

TITLE OF INVENTION

<u>APPARATUS FOR THERMAL TREATMENT OF AN INTERVERTEBRAL DISC</u>

(Decknatum and Power of Attumey [1-1] - page 1 of 5

SPECIFICATION IDENTIFICATION

the specification of which: (complete(u), (b) or (c))

- (a) [] is attached hereto.
- was filed on December 18, 2000 as [X] Serial No. 09/739,428 or [] Express Mail No. and was amended on as Serial No. not yet known. **⊠** €

applicable).

Amendment that sher the original papers are departed with the PTU risish contain now sentine are not excorded a tiltude does by the sense that the first of the probability of a sense that the sense of a sense that the sense of the sense of a sense of the sense of t filed on NOTE

was described and claimed in PCT International Application No. and as amended under PCT Article 19 on

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any antendanean referred to above.

I acknowledge the duty to disclose information which is naterial to patertability as defined in $37\,\mathrm{CFR}$ § 1.56.

and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

in compliance with this duty there is attached an information disclosure statement in accordance with 37 C.F.R. 1.98.

PRIORITY CLAIM (35 U.S.C. §119)(#)-(d)

certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that I bereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of application(s) designating at least one country office than the United States of America listed any forcign application(s) for patcol or inventor's certificate or of any PCT international below and have also identified below any forcign application(s) for patent or inventor's of the application(s) of which priority is claimed.

(connplete (d) or (e))

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- no such applications have been filed. ⊠ □ © ©
- such applications have been filed as follows.

Where then (c) is entered above and the harmanismal Applications which designated the U.S. itself defined princing chack item (c), case the designs to below and notice the princing class. NOTE:

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PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTES (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119(a)(d)

			DE NO
PRIORITY CLAIMED UNDER 35 U.S.C. 119	CI YES CI NO	CI YPS CI NO	APPLICATION(S)
DATE OF FILING (dsp, search, peer)		1	CLAIM FOR BENEFIT OF PRIOR US, PROVISIONAL APPLICATION(S)
APPLICATION			BENERIT OF PRIOR
COUNTRY (OR			CLAIM FOR I

(34 U.S.C. §119(e))

I bereby claim the benefit under Title 35, United States Code, §119(e) of any United states application(s) histed below. States provisional application(s) histed below:

PROVISIONAL APPLICATION NUMBER

60/171,822

FILING DATE

December 21, 1999

ALL FORRIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) FRIOR TO THIS U.S. APPLICATION

If the supplication (like) were than 12 member from the filting date of this styferation is a PCT (filting froming the bears for this application centering the United States as (1) the actional date, or (2) a confirmation, derivated, or confirmation to pct, (then the complicate ADXED PACES TO COMBRET DESTARATION AND POWER OF ATTENDEST TORDINGSOMA, CONFIDENTIAL AND POWER OF ATTENDEST TORDINGSOMA, CONFIDENTIAL AND TO WERE OF ATTENDEST TORDINGSOMA, KOJE

POWER OF ATTORNEY

I hereby appoint the following atomey(s) and/or agrat(s) to procedur this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration manber)

DAYID B. CARITER Reg. Ph. 30.949; FETER DELUCA, Edg. Ph. 31.978 RAYMOND E. PARREILL, Reg. Ph. 34.816; IGSEPH W. SCHMIDT, Reg. Ph. 36.959; JERTREY S. STEEP, Reg. Ph. 31.963; RUSSELL E. KASSNER, Reg. Ph. 31.963; CHENTOPHER G. TEARNOR, Edg. No. 39.317; GROSGE LIKOUREZOS, Reg. No. 40.667; EDWARID C. 54.18; CHENTOPHER Reg. Ph. 41, 189; PRANCIESCO SARDONY, Reg. Ph. 47.918; JIDA NAAMALY, Reg. No. 39.311; LBE GROSSEREIZH Reg. No. 43,717; card of lama of CANITEM, GROSSEREIZH REG. PH. 44, 1704; and, DAVID KORIE, Reg. Ph. 24,976; and, DAVID KORIE, Reg. Ph. 34,959; card of them of UNITED STATES SURGICAL, A DIVESTOR OF TYCO HEALTHCARL GROUP L.P. 180; Grovel Avende, Norwilk, Camordical O&&&.

(Declaration and Power of Attarney [1-1] - page 3 of 5

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DIRECT TELEPHONE CALLS TO: (Nome and telephone mumber)

SEND CORRESPONDENCE TO:

(203) 845-4603

a Division of Tyco Healthcare Group LP

Douglas R. Denninger, Esq.

United States Surgical,

150 Glover Avenue Norwalk, Connecticat 06856

DECLARATION

I bereby declare that all statements made herein of my own knowledge are true and that all purishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any statements were made with the knowledge that willful false statements and the like so made are statements usade on information and belief are believed to be true; and further that these patent issued thereon.

SIGNATURE(S)

Carefolty indicate the family (or lead) same as is shootd appear on the filing receipt and all other documents. NOTE:

(Declaration and Power of Automory [1-1] - page 4 of 5

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CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PACE(S) WHICH FORM A PART OF THIS DECLARATION

Signature by administrator(trix), executor(trix) or logal representative for decessing of incapacitated invertor.

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Number of pages added

Signature for inventor who refuses to sign or carmot be reached by person authorized under 37 C.F.R. §1.47. Number of pages added __

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Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.

Number of pages added ______

Authorization of attorney(s) to accept and follow instructions from representative. þ

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If no further pages form a part of this Declaration then end this Declaration with this page and check the following item.

I This declaration ends with this page.

all Beble 1, soon

(Declaration and Power of Attamey [1-1] - page 5 of 5



COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:
TYPE OF DECLARATION
This declaration is of the following type: (check one applicable item below)
☑ original☐ design☐ supplemental
NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in- part application do <u>not</u> check next item; check appropriate one of last three items.
□ national stage of PCT
NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.
☐ divisional ☐ continuation ☐ continuation-in-part (CIP)
INVENTORSHIP IDENTIFICATION
WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.
My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

APPARATUS FOR THERMAL TREATMENT OF AN INTERVERTEBRAL DISC

SPECIFICATION IDENTIFICATION

the specification of which: (complete (a), (b) or (c))			
(a)		is attached hereto.	
(b)	X	was filed on <u>December 18, 2000</u> as ⊠ Serial No. <u>09/739,428</u> or □ Express Mail No., as Serial No. not yet known and was amended on (if applicable).	
NOT	E: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 C.F.R. 1.67.		
(c)		was described and claimed in PCT International Application No filed on and as amended under PCT Article 19 on (if any).	
	A	CKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR	
spe	I he	ereby state that I have reviewed and understand the contents of the above identified ation, including the claims, as amended by any amendment referred to above.	
I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. §1.56.			
	the	I which is material to the examination of this application, namely, information where RECEIVED re is a substantial likelihood that a reasonable Examiner would consider it important in NOV 1 9 2002 ciding whether to allow the application to issue as a patent, and	
	in o	compliance with this duty there is attached an information disclosure statement in cordance with 37 C.F.R. 1.98.	
		PRIORITY CLAIM (35 U.S.C. §119)(a)-(d)	
I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.			
(complete (d) or (e))			
(d (e)) (such applications have been filed as follows.	
NC	TE:	Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.	

PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119(a)-(d)

COUNTRY (OR	APPLICATION	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. 119
INDICATE IF PCT)	NUMBER	(uuy, meem),	☐ YES ☐ NO
			☐ YES ☐ NO
			TO A TIMONICO

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S) (34 U.S.C. §119(e))

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

FILING DATE

60/171,822

December 21, 1999

RECEIVED

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHSNOV 1 9 2002 (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

NOTE:

If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CIP APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. §120.

POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

DAVID M. CARTER, Reg. No. 30,949; PETER DELUCA, Reg. No. 32,978 RAYMOND E. FARRELL, Reg. No. 34,816; JOSEPH W. SCHMIDT, Reg. No. 36,920; JEFFREY S. STEEN, Reg. No. 32,063; RUSSELL R. KASSNER, Reg. No. 36,183; CHRISTOPHER G. TRAINOR, Reg. No. 39,517; GEORGE LIKOUREZOS, Reg. No. 40,067; EDWARD C. 36,183; CHRISTOPHER G. TRAINOR, Reg. No. 39,517; GEORGE LIKOUREZOS, Reg. No. 40,067; EDWARD C. MEAGHER, Reg. No. 41,189; FRANCESCO SARDONE, Reg. No. 47,918; JUDY NAAMAT, Reg. No. 39,311; LEE MEAGHER, Reg. No. 48,900; and, DANA A. BRUSSEL, Reg. No. 45,717, each of them of CARTER, GROSSKREUZ HECHTEL, Reg. No. 48,900; and, DANA A. BRUSSEL, Reg. No. 45,717, each of them of CARTER, No. 30,908; DOUGLAS E. DENNINGER, Reg. No. 31,752; PAUL R. AUDET, Reg. No. 26,439; and, MARK FARBER, No. 30,908; DOUGLAS E. DENNINGER, Reg. No. 31,752; PAUL R. AUDET, Reg. No. 26,439; and, MARK FARBER, Reg. No. 34,159; each of them of UNITED STATES SURGICAL, A DIVISION OF TYCO HEALTHCARE GROUP LP, 150 Glover Avenue, Norwalk, Connecticut 06856.

SEND CORRESPONDENCE TO:

DIRECT TELEPHONE CALLS TO:

(Name and telephone number)

Douglas E. Denninger, Esq. United States Surgical, a Division of Tyco Healthcare Group LP 150 Glover Avenue Norwalk, Connecticut 06856

(203) 845-4603

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name as it should appear on the filing receipt and all other documents.

Full name of sole or first inventor	: Philip Michael Finch
Inventor's signature	
Date	Country of Citizenship Australia
Residence 18 Hardy Street	
Post Office Address South Perth	West Australia 6151
Full name of second joint inventor	r, if any Eric R. Cosman
Inventor's signature	Ihm
Date Sept. 30, 2002	Country of Citizenship USA
Residence 872 Concord Avenu	e
Post Office Address Belmont, MA	A 02478

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OFFICE OF PETITIONS

CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S) WHICH FORM A PART OF THIS DECLARATION

Signature for subsequent joint inventors. Number of pages added
Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added
Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. §1.47. Number of pages added ***
Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application. Number of pages added ***
Authorization of attorney(s) to accept and follow instructions from representative. ***
If no further pages form a part of this Declaration then end this Declaration with this page and check the following item.
▼ This declaration ends with this page